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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,504	03/31/2004	Jewel Tracy	20031124-001	6464

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Roger L. Belfay
829 Tuscarora Avenue
Saint Paul, MN 55102

EXAMINER

LANDRUM, EDWARD F

ART UNIT	PAPER NUMBER
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3724

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/814,504

Applicant(s)

TRACY, JEWEL

Examiner

Edward F. Landrum

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, and 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oats '513 (U.S Patent No. 4,926,513) in view of Heppner (U.S Patent No. 4,212,217) in further view of Van Wagner (U.S Patent No. 1,891,629), hereinafter Wagner.

Regarding claims 1 and 9, Oats '513 teaches (see Figures 1-2) a frame (100), having four sides, for placement on a floor to define a sanitary area, within the planar areas defined by the frame, and help guide the sanitary covering material through the frame. Steiner further teaches the dispensing device (110 and 110') is above the frame (100) and attached outside of the sanitary area (see Figure 4).

Regarding claims 2 and 10, Oats '513 teaches (see Figures 1-2) a collection device above frame (100).

Regarding claim 6, Oats '513 teaches (see Figure 2) the use of a hand-operated roller (136) for the collection device.

Regarding claim 7, Oats '513 teaches (Col. 2, lines 29-38; also see Figure 3) the use of an electrically operated roller (130') in the collection device.

Oats teaches all of the elements of the current invention as stated above except the dispensing device being disposed above the sanitary area.

Heppner teaches (see Figure 1) a roll of material (12) disposed above an area of use.

Wagner teaches (see Figures 1 and 2) that it is old and well known in the sanitary web art to provide web in rolls (23) outside of a sanitary area which comprises the patient bed (10).

It would have been obvious to have modified Oats to incorporate the teachings of Heppner and Wagner to place the dispenser for the sanitary covering material above and outside of the sanitary area. Doing so would allow for the easy replacement of sanitary material when the dispensing device ran out of sanitary material. Furthermore, the overall design of the dispensing device would decrease in complexity therefore making it easier to manufacture and fix.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Oats '513 in view of Kapiloff '003 (U.S. Publication No. 2003/0116003).

The modified device of Oats '513 teaches all of the elements of the current invention except the use of a sensor for the automatic removal of the sanitary covering material whenever the user vacates the sanitary area.

Kapiloff '003 teaches the use of a force sensor to activate a drive motor thereby dispensing flexible sanitary material (Paragraph 33).

It would have obvious to have modified the modified device of Oats '513 to incorporate the teachings of Kapiloff '003 to create a device for the automatic dispensing of sanitary material. A force or weight sensor would detect the presence of a person on the sanitary covering material and could easily activate a motor to dispense new sanitary covering material once the force left thereby making the replacement of sanitary covering material automatic thereby requiring less user interaction.

Response to Arguments

4. Applicant's arguments filed 11/27/2006 have been fully considered but they are not persuasive.

Regarding applicant's argument that the combination of Oats, Heppner, and Van Wagner is improper because Oats teaches away from the desired combination, it has been held that the omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same function as before. Tension is not necessary to create a sanitary area and therefore the omitting the tensioning system when combining Oats, Heppner, and Van Wagner is not improper.

Regarding Applicant's arguments concerning claim 8 the sensor of Kapiloff would detect the presence of a person on the sanitary covering material and could easily activate a motor to dispense new sanitary covering material once the force left thereby relieving the responsibility of someone needing to make sure that the covering material was replaced after every use. Furthermore, the claim only states that a sensor activates a roller to remove the used portion of sanitary material and does not disclose what type of sensor is used to detect when a user vacates a sanitary area, therefore the

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force sensor Kapiloff could detect when a user vacates the area. Lastly, the use of sensing equipment to remove sanitary covering from frames is old and well known, as can be seen in patents like Abbas et al listed in the pertinent prior art below.

Regarding applicant's arguments concerning claims 9 and 10. An area is a two-dimensional space. The sanitary area of Oats is within the footprint and therefore the area of the frame.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Oats '600 (U.S Patent No. 3,641,600), and Steiner (U.S Patent No. 1,877,610) teach devices for dispensing sanitary material. Schuler (U.S Patent No. 6,105,481), and Welch et al (U.S Patent No. 5,894,978) teach cutting devices of flexible material. Cooper (U.S Patent No. 3,315,676) teaches perforated sanitary material. Schreck (U.S Patent No. 6,038,708) teaches a stacking area for sanitary covering material. LaRose (U.S Patent No 6,363,555) teaches motorized movable web material. Bailey (U.S Publication No. 2004/0084609), Abbas et al (U.S Patent No. 5,265,296), Formon et al (U.S Patent No. 6,742,689), Jahrling (U.S Patent No. 6,161,814), and Kapiloff '620 (U.S Patent No. 6,892,620) teach sensor devices for use in sanitary applications. Blanchard (U.S Patent No. 2,088,686), and Mueller (U.S Patent No. 2,751,003) teach material dispensers located above the material working area.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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EFL

1/18/2007



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER